

May 22, 2003

IN RE: DOCKET NO. 2002-416-C – Proceeding for the establishment of a requirement that non-facilities based CLEC's providing prepaid local telephone service be required to post an appropriate Surety Bond.

**COPY OF TESTIMONY OF JAMES M. MCDANIEL ON BEHALF OF
THE PUBLIC SERVICE COMMISSION HAS BEEN DISTRIBUTED TO
THE FOLLOWING:**

J. McDaniel

Legal

Exec. Asst.

Exec. Director

Manager, Utils Dept.

Audit (1)

Commissioners (7)

pao

COMMISSIONERS
MIGNON L. CLYBURN, 6TH DISTRICT
CHAIR
RANDY MITCHELL, 3RD DISTRICT
VICE CHAIRMAN



COMMISSIONERS
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H. CLAY CARRUTH, JR., 5TH DISTRICT
C. ROBERT MOSELEY, AT LARGE

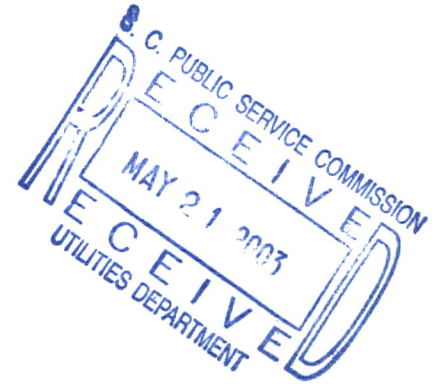
GARY E. WALSH
EXECUTIVE DIRECTOR
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The Public Service Commission State of South Carolina

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May 21, 2003

Honorable Gary E. Walsh
Executive Director
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, SC 29211



RE: Docket No. 2002-416-C – Proceeding for the establishment of a requirement that Non-Facilities Based CLEC's providing prepaid local telephone service be required to post an appropriate Surety Bond

Dear Mr. Walsh:

Pursuant to R.103-869 of the Commission's Rules and Regulations, I am herein enclosing the original and twenty-five (25) copies of the testimony and exhibits intended to be offered by the one (1) witness for the Commission Staff in the above referenced proceeding. By copy of this letter, I am serving copies of the testimony on the parties of record in this proceeding.

If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, which appears to read "F. David Butler".

F. David Butler
General Counsel

FDB:dd
Enclosures:
cc: All Parties of Record

May 21, 2003

IN RE: DOCKET NO. 2002-416-C – Proceeding for the establishment of a requirement that non-facilities based CLECs providing prepaid local telephone service be required to post an appropriate Surety Bond

A copy of the Testimony and Exhibits of Jim McDaniel was sent first-class postage to the following Parties of Record:

Patrick W. Turner, Esquire
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Columbia, SC 29201

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Verizon South, Inc.
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dd

***Proceeding for the establishment of a
requirement that non-facilities based
CLECs providing prepaid local telephone
service be required to post an appropriate
Surety Bond***

ORIGINAL
POSTED
5/22/03
POD

Docket No. 2002-416-C

***Direct Testimony
James M. McDaniel
Utilities Department***

Public Service Commission of South Carolina

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

2
3 A. James M. McDaniel, 101 Executive Center Drive, Columbia, South Carolina. I am
4 employed by the Public Service Commission of South Carolina (Commission). I
5 hold the position of Chief of the Telecommunications area which is part of the
6 Utilities Department.

7
8 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND YOUR**
9 **BUSINESS EXPERIENCE.**

10
11 A. I received a Bachelor of Science Degree in Engineering from the University of South
12 Carolina in December of 1975. I was employed by the Public Service Commission
13 of South Carolina in February of 1976, where I have always worked in the Utilities
14 Department. My specific assignments have been in the area of regulation of the
15 telecommunications industry.

16
17 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

18 A. Yes. During my tenure with the Commission, I have offered testimony in
19 proceedings concerning ratemaking, rate design, depreciation, rulemaking, and
20 complaints.

21
22 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

23 A. The purpose of this testimony is to address requirements for prepaid local exchange
24 carriers, to share information obtained as part of its investigation of these matters,
25 and to make recommendations for the Commission's consideration.

26
27 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF THE EVENTS WHICH LEAD**
28 **TO THE INITIATION OF THIS PROCEEDING.**

1 A. This generic proceeding was initiated by Order No. 2002-724 in Docket No. 2002-
2 208-C. In this Order, the Commission granted a Certificate of Public Convenience
3 and Necessity to Aspire Telecom, Inc. and addressed a requested waiver of Aspire
4 Telecom, Inc. of certain Commission Regulation governing jurisdictional
5 telecommunications carriers. Additionally, the Commission recognized that there
6 may be legitimate differences in regulatory needs for local carriers providing prepaid
7 local exchange services and other local exchange carriers.

8
9
10 As part of its Application, Aspire Telecom, Inc. requested several waivers of the
11 Commission regulation governing telecommunications utilities. The Commission
12 granted several waivers, which had been determined in previous cases would create
13 a hardship for carriers providing competitive local exchange services. However,
14 Aspire had requested wavier of regulation 103-622. 2 and 103-633. Regulation 103-
15 622.2 addresses Late Payment Charges. Regulation 103-633 addresses Procedures
16 for Termination of Service.

17
18 **103-622.2. Late Payment Charges.**

19 A maximum of one and one half percent (1 1/2 %) may be added to any unpaid
20 balance brought forward from the previous billing date to cover the cost of collection
21 and carrying accounts in arrears. This method of late payment charge will be made
22 in lieu of any other penalty. Billings for 900 and 900-type charges or non-regulated
23 items are excluded from the balance on which a late fee may be imposed.

24
25 **103-633. Procedures for Termination of Service.**

26 Service may be terminated for non-payment of a bill, provided that the telephone
27 utility has made a reasonable attempt to effect collection and has given the customer
28 written notice that he has five days in which to make settlement on his account or

1 have his service disconnected. Service will be terminated only on Monday through
2 Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have
3 been made to have someone available to accept payment and reconnect service.

4 Aspire had requested that the Commission allow the Company to assess a flat late
5 payment charge of \$10.00 in lieu of the prescribed rate 1.5% of the balance brought
6 forward from a previous billing. Additionally, Aspire sought waiver of the
7 regulation requiring company to provide a second five day written notification of
8 disconnect of service as required by the Commission Rule governing the procedures
9 for termination service.

10 The Utilities Department Staff opposed the waiver of these regulations. The
11 principal reason for Staff opposition was because it would be difficult to administer
12 waivers of such regulation on a piece meal basis.

13 In its Order, the Commission denied the request for waiver of these regulations for
14 Aspire Telecom, and found that a generic proceeding to consider requirements for all
15 prepaid local exchange carriers was appropriate.

16 During a subsequent Commission Regular Business Meeting, the Commission was
17 apprised of impending disconnect of service by an incumbent local exchange carrier
18 of a prepaid local exchange carrier's services due to non-payment for service
19 obtained from the incumbent local exchange carrier by the competitive local
20 exchange carrier. The Commission appeared to be concerned about the un-
21 recovered indebtedness by the incumbent local exchange carrier and potential impact
22 on the customer who had paid for their services obtained from the competitive local
23 exchange carrier. The Commission renewed its interest of requiring prepaid local
24 competitive carrier to post a surety bond as a means of protecting the incumbent
25 local exchange carriers from uncollectibles and consumers who have paid for
26 services that they will not receive, due to a disconnect of wholesale services
27 provided to the competitive local exchange carrier. As result of this renewed

1 interest, the Commission determined a bond requirement for prepaid local exchange
2 should be addressed as part of this proceeding.

3
4 **Q. PLEASE BRIEFLY EXPLAIN THE RESEARCH UNDERTAKEN BY THE**
5 **STAFF IN PREPARATION OF THIS PROCEEDING.**

6
7 A. The Staff prepared a brief request for assistance, which was sent to eight states
8 located in Southeastern United States. The inquiry was sent to representatives of the
9 regulatory staff or public staff for the states of Alabama, Georgia, Florida,
10 Louisiana, Mississippi, North Carolina, Tennessee, and Kentucky. A copy of the
11 request is attached as Exhibit JMM-1.

12
13 The Staff received responses from the States of Florida, Louisiana, Mississippi,
14 North Carolina and Kentucky. The responses indicated that only two states have
15 directly addressed specific requirements to be addressed in this proceeding. The
16 North Carolina Utilities Commission is the only responding Commission that has
17 established Rules for Competitive Local Providers offering Prepaid Local Exchange
18 Service. Similarly, Louisiana Public Service Commission is the only responding
19 Commission which has established a bond requirement for prepaid local service
20 providers.

21
22 A cut and paste copy of the of North Carolina Utilities Commission's Rule 17-6
23 governing prepaid local exchange service has been attached to this testimony as
24 Exhibit JMM-2. Since this Rule provides for exemption from North Carolina
25 Utilities Commission Rule 17-2, a copy of this rule has also been attached to this
26 testimony and labeled Exhibit JMM-3. The area of Rule 17-2 for which exemption
27 has been allowed by R17-6 for competitive local provider providing prepaid local
28 exchange service has been set out in bold.

**Q. PLEASE PROVIDE YOUR ASSESMENT OF NORTH CAROLINA
UTILITIES COMMISSION RULE 17-6.**

A. Similar to this Commission, through the establishment of this generic proceeding, it appears that the North Carolina Utilities Commission recognized specific requirements were needed for carriers providing prepaid local exchange services in contrast to those requirement for competitive local exchange carrier which offers a full array of local services.

My review of Rule 17-6 indicates that the North Carolina Utilities Commission has chosen to allow the contract service agreement between a consumer and a competitive local provider to govern the manner in which prepaid local exchange services are provided.

However, this Rule does specify the type information and manner of disclosure of this information to the consumer prior to entering the contractual agreement. For example, the North Carolina Utilities in subpart (b) (1) (iii) requires the agreement include a full description of the billing process and payment arrangements, which include at a minimum, the billing date, the past due date, and the date on which service may be discontinued for non-payment of regulated charges.

**Q. DO YOU FEEL THAT THIS IS A REGULATORY PROCESS WHICH
SHOULD BE FOLLOWED BY THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA?**

A. This approach would reduce the regulatory burden for small competitive local exchange carriers providing a specialized service, such as prepaid local exchange service.

However, while this approach appears to be an efficient regulatory process, the specific rules should be modified to accommodate this Commission's previous

1 decisions and policies. One specific recommendation concerning any requirement
2 which allows this regulatory type treatment is that the contractual agreement should
3 include a statement advising consumers that they have the right to file a complaint,
4 with the Public Service Commission of South Carolina concerning the carrier, and
5 should have specific information concerning the manner in which the consumer can
6 contact the Commission.

7
8 Additionally, I would recommend that the agreement include a specific option for
9 consumers to select whether the consumer wishes to have a preferred carrier freeze
10 placed on the consumer's line.

11
12 **Q. PLEASE SHARE THE INFORMATION WHICH YOU HAVE LEARNED**
13 **CONCERNING WHETHER COMPETITIVE LOCAL EXCHANGE**
14 **CARRIERS OFFERING PREPAID LOCAL EXCHANGE SERVICE**
15 **SHOULD BE REQUIRED TO POST A BOND.**

16
17 **A.** As indicated earlier, the only State Commission responding to my request for
18 information which had a bond requirement for carriers providing prepaid local
19 exchange service was Louisiana. A copy of the Louisiana requirements concerning
20 bonds is attached to this testimony as Exhibit JMM-4. The Louisiana requirement
21 contains a formula for a calculation of the amount of a bond required of specific
22 carriers.

23
24 **Q. SHOULD THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**
25 **REQUIRE COMPETITIVE LOCAL EXCHANGE CARRIERS OFFERING**
26 **PREPAID LOCAL SERVICES TO POST A BOND?**

27
28 **A.** The Commission has previously required carriers offering prepaid calling card and
29 long distance services to post a bond. This requirement was established to protect a
30 consumer who purchases service in advance, when a carrier may unexpectedly exit

1 the market. Clearly, the same potential situation exists in the case of carriers
2 providing prepaid local exchange service. In my opinion, I think the public interest
3 would be served by the establishment of a bond requirement. Certainly, the formula
4 set in the Louisiana Public Service Commission requirements would be a good
5 method for approximating the size of bond required from competitive local exchange
6 carrier.

7
8 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

9 **A. Yes, it does.**

My Commissioners have requested that I contact representatives of Commissions from the Southeastern States to obtain information to learn the regulatory treatment used by the states to regulate competitive local carriers providing "prepaid competitive local exchange services".

The Public Service Commission of South Carolina has established a proceeding to consider special regulatory requirements for these type carriers, and to consider the requirement that these carriers post a bond. In South Carolina, we have had a number of these carriers enter the market and then after a short time the carrier will exit the market.

1. Has your Commission established special Rules or Regulatory Requirements for prepaid local exchange carriers? If your response is affirmative, would you please share specific information concerning your states regulatory treatment including any Commission regulations, tariffs, directives, or statutory references. If the material is accessible in an electronic format, please forward or explain how I can locate this information.

2. Our Commission approved a Consumer's Telecommunications Bill of Rights for Incumbent Local Exchange carriers a number of years ago. Has your Commission established specific Consumer Bill of Rights for Competitive Local Exchange Carriers, and more specifically for carriers offering prepaid competitive local exchange carriers? A copy of such Bill of Rights would be appreciated.
3. Has your carrier addressed Preferred Local Exchange Carrier Freezes in the situation where the Competitive Local Exchange Carrier's underlying carrier has disconnected its service? In some cases, this has been a major obstacle for consumers when they try to change to another carrier and when they want to retain their current number.

Another major concern of the Commission is when prepaid CLECs exits the market, the carrier leaves a sizeable outstanding unpaid balance with the incumbent local exchange carriers. Our Commission is trying to determine if a requirement that a CLEC post a bond/surety bond to protect the consumers and the incumbent local exchange is feasible.

4. Does your Commission require prepaid competitive local exchange carriers to post bond?
 - a. Please provide the amount of the bond? (Please include regulatory cite for bond requirement?)
 - b. If the amount of bond can vary, please provide the criteria used by your Commission to determine the size of bond?
 - c. In your state, has your Commission used a bond to offset the losses of the underlying local exchange carriers or is the bond only used to protect the consumer's interest (refund of advance payments made the consumers).
 - d. Are carriers required to keep an active bond on file with your Commission for the duration of its operations with your state?
 - e. If your Commission requires a bond, please provide the number of bonds for which the Commission has collected to reimburse consumers.

- f. Please provide the procedures used to notify and reimburse consumers.
- g. If your State collects data on a periodic basis concerning the number consumers receiving refunds of amount paid in advance, please share this information and the average amount of refunds?

Again, if any of this information is available on your website or is available in an electronic format, please advise how we can access this data.

Any additional regulatory treatment information which you can share on prepaid CLEC will also be appreciated. For example, if your Commission has held workshops on these issues, please share this information also.

Since the proceeding referenced earlier is scheduled to take place in the next few weeks and would need to summarize this information, an early response to these questions would be greatly appreciated. If your response can be shared by May 13, this will be very helpful.

A non-related question, are you aware of any proposal to address the FCC Triennial review on regional basis?

In closing thank you in advance for your assistance,

Jim McDaniel
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Rule R17-6. Prepaid Local Exchange Service.

(a) Prepaid local exchange service(s) are exempt from portions of Commission Rule R17-2(f). No other basic local exchange service(s) offered by such CLP shall be exempt from any portion of Commission Rule R17-2(f). Those portions of Commission Rule R17-2(f) from which prepaid local exchange service may be exempt are:

- (1) That part of Commission Rule R17-2(f2) requiring access to local and long distance directory assistance;
- (2) Commission Rule R17-2(f3) requiring access to operator services; and
- (3) Commission Rule R17-2(f4) requiring access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls.

(b) Prepaid local exchange service offered by a CLP is subject to the following terms and conditions:

- (1) The CLP shall provide the subscriber with a Customer Service Agreement which constitutes the contract between the subscriber and CLP. The Customer Service Agreement shall:
 - (i) describe with particularity the local exchange services offered, contain a concise list of the rates for all services offered, and fully disclose all terms and conditions with which the subscriber must comply;
 - (ii) fully disclose any limitations of the provided services as a result of the exemptions permitted in Commission Rule R17-6(a);
 - (iii) include a full description of the billing process and payment arrangements, which shall include, at a minimum, the billing date, the past due date and the date on which service may be discontinued for non-payment of regulated charges;
 - (iv) state that Lifeline and Link-Up Carolina programs are available for qualifying subscribers who contact their local social services agency; and
 - (v) contain a statement which establishes that the subscriber has read the Customer Service Agreement in its entirety, or has had the Customer Service Agreement read to him or her, and has fully understood the terms and conditions of service before signing the Customer Service Agreement.
- (2) The CLP shall make appropriate changes to the Customer Service Agreement pursuant to all statutes and Commission orders, rules and regulations;

- (3) If any portion of the Customer Service Agreement is in a language other than English, all portions of the Customer Service Agreement must be in that language. Every Customer Service Agreement must be in the same language as any promotional materials, oral descriptions, or instructions provided with the Customer Service Agreement;
 - (4) A copy of the Customer Service Agreement signed by the subscriber shall be received by the CLP or its independent agent before the CLP may provide local exchange services to the subscriber;
 - (5) The CLP may not offer a service in such a way that purchasing a period of service obligates the subscriber to purchase additional periods of the same service;
 - (6) The CLP may not impose any charge for the termination of basic local exchange service; and
 - (7) The CLP may not impose any punitive charges on its subscribers for the accumulation of intraLATA toll or interLATA long distance charges.
- (c) The Customer Service Agreement shall be subject to periodic review by the Commission and the Public Staff. (NCUC Docket No. P-100, Sub 133, 9/21/00.)

Rule R17-2. Requirements and limitations regarding certification of competing local providers.

(a) Any entity other than an existing CLP certificate holder applying for a certificate or for authority to acquire an existing certificate shall complete a CLP application form and make a satisfactory showing to the Commission:

- (1) That it is fit, capable and financially able to render such service;
- (2) That the service to be provided will reasonably meet the service standards set out in Rule R9-8;
- (3) That the provision of the service will not adversely impact the availability of reasonably affordable local exchange service;
- (4) That it will participate to the extent it may be required to do so by the Commission in the support of universally available telephone services at affordable rates; and
- (5) That the provision of the services will not otherwise adversely impact the public interest.

(b) Any CLP applying for a certificate to provide competing local exchange or exchange access services shall include in its application the following:

- (1) The name of the CLP, the address of the principal headquarters, the telephone and facsimile numbers, and the names and addresses of the CLP's principal officers;
- (2) Names, addresses, and telephone and facsimile numbers of the CLP's employees for the Commission to contact regarding various regulatory matters and for customers to contact regarding service;
- (3) If pay telephone service will be provided, the address to be used by the serving LEC in billing for payphone service provider (PSP) lines or trunks and by the CLP in meeting PSP notice requirements;
- (4) Information about the structure of the business organization and, where applicable, a copy of any articles of incorporation, partnership agreement, articles of organization, or by-laws of the CLP, and a copy of a certificate of authority to do business in North Carolina; if an office is not maintained in North Carolina, the name and address of agent for service of process in North Carolina;
- (5) A list of other states where the CLP or any of its affiliates is authorized to operate and a list of those states which have denied any requested authority and an indication of the nature of such denial;
- (6) A showing as to the CLP's financial, managerial and technical ability to render local exchange or local exchange access services:

(a) As a minimum requirement, a showing of financial ability shall be made by attaching the CLP's most recent stockholders' annual report, its most recent SEC 10K or audited financial statements for the most recent twelve months or, if the company is not publicly traded, its most recent balance sheet and income statement. If a balance sheet and income statement are not available, then the CLP shall provide a current 5-year business plan and all supporting workpapers and schedules as provided on the CLP application form. Additional support for the Applicant's financial ability may also be included as provided on the CLP application form. The Applicant must also provide an explanation for any conditions which may affect its ability to continue as a going concern as set forth in the CLP application form;

(b) To demonstrate managerial and technical fitness and ability, the CLP shall attach a brief description of its history of providing local exchange or exchange access or other telecommunications services and shall list the geographic areas in which it has been and is currently providing such services. A newly created company shall list the experience of each principal officer and may also provide other documentation in order to show its managerial and technical ability to provide services.

(c) Rescinded.

(7) Confirmation that the application has been served on each of the LECs in North Carolina;

(8) A statement setting forth with particularity the proposed geographic areas to be served;

(9) The types of local exchange and exchange access services to be provided; and

(10) A statement that the CLP agrees to abide by all applicable statutes and all applicable Orders, rules, and regulations entered and adopted by the Commission.

(c) The application shall be verified. The CLP shall file the original and 11 copies of its application with the Chief Clerk of the Commission and shall submit a statutory filing fee of \$250 with the application. Applications are exempt from Commission Rule R1-5(d) which requires that pleadings filed on behalf of a corporation be filed by a member of the Bar of the State of North Carolina. Should a public hearing be required, the requirements of G.S. 84-4 and G.S. 84-4.1 are still applicable.

(d) Falsification or failure to disclose any required information in the petition for certification may be grounds for denial or revocation of any certificate.

(e) All CLPs shall be willing as a condition to certification to provide support for universal service in a manner determined by the Commission. This requirement shall not be construed as prohibiting the granting of a certificate before the universal service issues are finally determined by the Commission.

(f) Except as provided in Commission Rule R17-6, a CLP shall, either directly or through arrangements with other carriers, provide as a part of its basic local exchange service(s) the following:

(1) Access to emergency service and services for the hearing and speech impaired;

(2) Access to local and long distance directory assistance and provision of local telephone directories to end-users;

(3) Access to operator services;

(4) Access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls;

(5) Compliance with Commission basic services standards as defined in any applicable rules and decisions of the Commission;

(6) Free blocking of 900 and 976-type services and other pay-per-call services, including but not limited to calls to 700 and 800 numbers, for which charges are made by the service provider and billed by the CLP;

(7) Free per-call and per-line blocking in accordance with Orders of the Commission applicable to LECs; subscribers must be advised by bill insert or direct mailing of the availability of these free features at least once per year; and

(8) Number portability where technically and economically reasonable.

(g) The provisions of Commission Rule R9-8 and R12-1 through R12-9 shall apply to CLPs.

(h) Rescinded.

(i) CLPs shall maintain their books of account in accordance with Generally Accepted Accounting Principles (GAAP).

(j) Financial reports are not required to be routinely filed by CLPs. However, the CLP shall submit specific financial information upon request of the Commission or the Public Staff.

(k) By the 15th day of each month, each CLP shall file a report with the Chief Clerk reflecting the number of local access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service, the number of local access lines that are providing prepaid local exchange service and the number of local access lines providing traditional local exchange telephone service. Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.

(l) CLPs shall be required to participate in the telecommunications relay service in accordance with G.S. 62-157 and applicable orders, rules and regulations entered and adopted by the Commission.

(m) CLPs shall be subject to the provisions of Chapter 62A of the General Statutes, the Public Safety Telephone Act, applicable to service providers.

(n) A CLP must abide by all applicable provisions adopted by the Commission for disconnection, partial payments, global toll denial, nonregulated charges, 900 and similar charges, treatment of

stale debts, disconnect notices, periodic notification of disconnect policy and billing statements as set forth in Commission Rule R12-17.

(o) Rescinded.

(p) Billing services for intrastate long distance calls may be offered by a CLP only to long distance carriers certified by the Commission or to clearinghouses acting on behalf of certified long distance carriers. The name of the service provider shall be clearly stated on each page of the bill, and a contact telephone number for questions on the service shall appear on the bill. If billing is done through a clearinghouse, the name of the clearinghouse shall also appear on each page of the bill.

(q) A notice by bill insert or direct mailing shall be given by a CLP to all affected customers at least 14 days before any public utility rates are increased and before any public utility service offering is discontinued. Notice of a rate increase shall include at a minimum the effective date of the rate change, the existing rates and the new rates.

(r) A CLP must abide by the provisions adopted by the Commission for the handling of problems arising from billing of 900 calls; other pay-per-call services, including but not limited to calls to 976, 700 and 800 numbers, for which charges are made by the service provider and billed to the caller by the CLP, shall be subject to the same provisions as are applicable to 900 calls.

(s) Usage charges and per-call rates for switched local exchange services provided by a CLP shall not apply unless the call is answered. Timing of a call shall not begin until the call is answered and shall end when either the calling party or the answering party disconnects.

(t) The provisions of Commission Rule R13, with the exception of R13-3(a), (b) and (c) shall apply to the offering of pay telephone service by a CLP. A CLP has the authority by virtue of its CLP certificate to offer both non-automated collect and automated collect service under the provisions of R13. When the term PSP Certificate Number is referred to in Rule R13, the docket number in which the CLP was certified shall be utilized, and when the term PSP certificate or certificate is referred to in Rule R13, the CLP certificate shall be used.

(u) CLPs are responsible for payment of the regulatory fee in accordance with G.S. 62-302 and Commission Rule R15.

(v) A CLP shall not knowingly offer or provide service for use in an unlawful manner.

(w) A CLP shall not assess a charge or penalty for disconnection of any regulated service unless the charge or penalty is specifically provided for in a contract signed by the subscriber. (NCUC Docket No. P-100, Sub 133, 7/19/95; 2/23/96; NCUC Docket No. P-100, Sub 140, 4/3/00; NCUC Docket No. M-100, Sub 128, 04/10/00; NCUC Docket No. P-100, Sub 133, 09/21/00.)

F. SECURITY REQUIREMENTS

1. The Commission, through its Executive Secretary, shall require that all certificated carriers that resell prepaid basic local service to end users shall procure a performance bond, irrevocable letter of credit or other approved form of security sufficient to cover, among other things, any customer prepayments or deposits that may be collected from its end users.

This security requirement shall be a continuing one which automatically renews and is not subject to termination without at least 60 days written advance notice provided to the Commission from the surety and Certificated carrier reselling prepaid local service.

Upon receiving notification that the security will be canceled, the certificated carrier reselling prepaid local service shall have 30 days following the notice of the cancellation to send proof of a new bond, letter of credit or other acceptable security agreement to the Commission. Should the certificated carrier reselling prepaid local service fail to provide proof prior to the lapse of this 30-day period, the Commission may institute proceedings to revoke the carrier's certificate.

2. The performance bond, letter of credit or certificate of deposit shall be in the form approved by Commission Staff. The amount of security required shall be calculated on a sliding scale, determined quarterly by the carrier and automatically submitted to the LPSC staff, using the following formula:

$$(N^* \times \text{Deposit collected per customer}) + (N \times \text{Monthly prepaid fee}) + (N \times \$50^1) \\ = \text{Required amount of Security/Bond.}$$

* N shall be the total number of end users or access lines, whichever is greater.

\$50,000.00 shall be the base or minimum amount of security a carrier is required to post with the Commission.

3. All existing certificated carriers reselling prepaid local service shall also comply with these new security requirements within 30 days of the effective date of this order.

4. A certificated carrier reselling prepaid local service shall provide the Commission with quarterly reports detailing the number of customers, number of access lines and amount of deposit and prepaid monthly fee for basic local service charged per customer. Should the number of customers, lines, or charges increase, the certificated carrier reselling prepaid local service shall automatically adjust its security on file with the Commission at the expiration of the quarterly deadline. The reports shall be due as follows: April 30 for data existing on April 15; July 30 for data existing on July 15; October 30 for data existing on October 15; and January 30 for data existing on January 15.

All carriers must provide supporting data as described above, calculate the security as provided under these regulations and post the appropriate bond within 30 days of the effective date of this order based on information from the most recent available figures. In any event, this information must not be more than 2 weeks old.

5. The penalty for failing to comply with any one of these requirements includes a fine of not greater than \$10,000.00 and /or revocation of the carrier's certificate by the Executive Secretary, following 10 days written notice of the proceeding for revocation. The Executive Secretary shall also have the authority to order the ILEC to place a freeze on the non-complying carrier's new orders until the appropriate quarterly security update is posted and requirements in this order have been met.

6. The Commission may require a bond or other security requirement at any time for those carriers excluded from these regulations, based upon the carrier's managerial, financial or technical ability.